

Superseded 5/10/2016

53C-2-407 Mineral lease application procedures.

- (1) Lands that are not encumbered by a current mineral lease for the same resource, a withdrawal order, or other rule of the director prohibiting the lease of the lands, may be offered for lease as provided in this section or may, with board approval, be committed to another contractual arrangement under Subsection 53C-2-401(1)(d).
- (2)
 - (a) A notice of the land available for leasing shall be posted in the administration's office.
 - (b) The notice shall:
 - (i) describe the land;
 - (ii) indicate what mineral interest in each tract is available for leasing; and
 - (iii) state the last date, which shall be no less than 15 days after the notice is posted, on which bids may be received.
- (3)
 - (a) Applications for the lease of lands filed before the closing date stated in the notice shall be considered to be filed simultaneously.
 - (b) The applications shall be:
 - (i) submitted in sealed envelopes; and
 - (ii) opened in the administration's office at 10 a.m. of the first business day following the last day on which bids may be received.
 - (c) Leases shall be awarded to the highest responsible, qualified bidder, in terms of the bonus paid in addition to the first year's rental, who submitted a bid in the manner required.
 - (d) In cases of identical bids of successful bidders:
 - (i) the right to lease shall be determined by drawing or oral auction;
 - (ii) the determination of whether to award the lease by drawing or oral auction shall be made at the sole discretion of the director; and
 - (iii) the drawing or oral auction shall be held in public at the administration's office in a manner calculated to optimize the return to the trust land beneficiary.
- (4)
 - (a) At the discretion of the director, mineral leases may be offered at an oral public auction.
 - (b) The director may set a minimum bid for a public auction.
- (5) The director may award a mineral lease without following the competitive bidding procedures specified in Subsections (3) and (4) or conducting an oral public auction, if the mineral lessee waives or relinquishes to the trust a prior mining claim, mineral lease, or other right which in the opinion of the director might otherwise:
 - (a) defeat or encumber the selection of newly acquired land, either for indemnity or other purposes, or the acquisition by the trust of any land; or
 - (b) cloud the title to any of those lands.
- (6) Following the awarding of a lease to a successful bidder, deposits, except filing fees, made by unsuccessful bidders shall be returned to those bidders.
- (7)
 - (a) Subject to Section 53C-2-104, lands acquired through exchange or indemnity selection from the federal government shall be subject to the vested rights of unpatented mining claimants under the Mining Law of 1872, as amended, and other federal vested rights, both surface and minerals.
 - (b) Subsection (7)(a) does not prevent the director from negotiating the accommodation of vested rights through any method acceptable to the parties.
- (8) The director may lease lands in the order in which applications are filed if:

- (a) the director offers trust lands for lease for mineral purposes according to the procedures in Subsections (3) through (6) and the lands are not leased; or
- (b) a period of time of not less than one year but less than three years has elapsed following:
 - (i) a revocation of a withdrawal; or
 - (ii) the date an existing mineral lease is canceled, relinquished, surrendered, or terminated.